

### **REMARKS**

In the Action, the claims are rejected over the cited patent and for not being enabled by the specification. In response, claims 1, 2, 9, 13 and 17 are amended, and new claim 24 is added to depend from claim 9. Thus, the pending claims in this application are claims 1-24, with claims 1, 2, 13 and 17 being independent.

Independent claims 1, 2, and 13 are amended to delete the reference to the hydrocarbon chain being substituted with one or more hydroxyl groups. These amendments are submitted to overcome the rejections over the cited patent. These amendments also obviate the rejections under 35 U.S.C. § 112, second paragraph, by deleting the term “optionally”.

Claim 17 is not rejected over the art of record or under 35 U.S.C. § 112. The present amendment amends claim 17 to be in independent form. Accordingly, claim 17 and claim 18, which depends from claim 17, are submitted to be in condition for allowance.

New claim 24 is added to depend from claim 9 and recites the length of the hydrocarbon group as in original claim 9.

In view of these amendments and the following comments, reconsideration and allowance are requested.

### **Rejection under 35 U.S.C. § 112**

Claims 1-12 and 20-23 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Action suggests that the claims contain subject matter that is not described in the specification to enable one skilled in the art to make and/or use the invention. Applicants respectfully disagree.

As noted in the previous response, independent claims 1 and 2 are directed to a method of preparation of a pharmaceutically or nutraceutically effective composition. Thus, the claims are directed to methods of producing the composition and are not directed to a method of

treatment. The specification and the Examples are enabling to one of ordinary skill in the art to produce a pharmaceutically or nutraceutically effective composition from a carrier or vehicle and a compound as recited in claim 1. The claims are not directed to a method of treatment so that examples of the efficacy of the composition for each treatment are not needed.

In view of the above, the claims are enabled by the specification.

#### **Rejection under 35 U.S.C. § 102**

Claims 1, 9-16 and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,950,688 to Bowser et al. The Action refers generally to column 3, lines 36-69, column 4, lines 1-14, and column 13, line 48. Initially, it is noted that the passage in column 13 does not disclose a compound of the claimed invention. Accordingly, clarification of this passage is requested.

As amended, independent claims 1 and 2 are amended to delete the reference to the hydroxyl groups on the R group of the formula R-X. Thus, as amended, independent claims 1 and 2 do not encompass the omega hydroxy fatty acids or substituted omega hydroxy fatty acids of Bowser et al. Bowser et al. does not disclose or suggest the pharmaceutical or nutraceutical composition comprising the compound R-X of claims 1 and 2 where R is an unsaturated hydrocarbon chain having 23 to 35 carbon atoms and 1 to 5 ethylenic or acetylenic unsaturations and where X is a primary alcohol, carboxylic acid group or ester thereof. Accordingly, claim 1 is not anticipated by Bowser et al. Bowser et al. further fails to disclose the compound of claim 9 where R is ethylenically unsaturated and where the hydrocarbon chain is as defined. Bowser et al. further fails to disclose the hydrocarbon chain having the recited length as in claims 10, 11 and 12 in combination with the formula recited in claim 1.

Independent claim 13 is also not anticipated by Bowser et al. As amended, claim 13 recites the formula where R<sub>1</sub> and R<sub>2</sub> have a total of 23 carbon atoms. Claim 13 is also amended

to delete the reference to the hydroxyl groups on the hydrocarbon chain. Thus, claim 13 does not encompass the omega hydroxy fatty acids of Bowser et al. Accordingly, claim 13 and dependent claims 14-16 and 19 are not anticipated by Bowser et al.

For the reasons discussed above, the claims are not anticipated by Bowser et al. The claims are also enabled to one of ordinary skill in the art by the specification as originally filed. Accordingly, reconsideration and allowance of the claims are requested.

Respectfully submitted,



Garrett V. Davis  
Reg. No. 32,023

Roylance, Abrams, Berdo & Goodman, L.L.P.  
1300 19<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20036  
(202) 659-9076

Dated: Jan 10, 2007